

California Regional Water Quality Control Board  
Santa Ana Region

March 12, 2004

ITEM NO. 18

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal Use – Pablo and Hilda Hernandez, 21661 Corson Avenue, Perris, Riverside County

DISCUSSION:

On February 13, 2004, Mrs. Hernandez contacted staff regarding the proposed addition of a second mobile home dwelling unit on their lot in Perris. The Hernandezes reside in a 4-bedroom, 2-bath mobile home located at the site. An existing subsurface disposal system is utilized for the discharge of sanitary wastes from the home. The gross size of the lot is slightly less than one acre (39,649 sq. ft or 0.91 acre net). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of sanitary wastes.

Mr. & Mrs. Hernandez propose to add a second dwelling (mobile home) unit on their property. A new septic tank-subsurface disposal system is proposed for the discharge of sanitary wastes from this second dwelling unit. This second mobile home will be utilized by Mr. Hernandez's mother and father, who require his assistance.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems in groundwaters of the Region.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that it was necessary to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSRs were adopted), and "new" developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to "new" developments.

Board also recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSRs address these circumstances. The MLSRs distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSRs. However, the MLSRs state that any proposal to add a freestanding structure that would result in additional wastewater flows must be considered a "new" development. The proposed second

dwelling unit at the Hernandez property would be a freestanding structure. As such, the project as a whole (the existing mobile home and the second dwelling/mobile home unit) must now be considered a “new” development to which the one-half acre minimum lot size requirement applies.

The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property, which would result in substantial additional wastewater flows.

Mr. & Mrs. Hernandez’s lot is slightly less than one acre in size (3,911 sq. ft short) and, therefore, staff was required to deny the Hernandez’s request for a clearance for the project. Mrs. Hernandez advised staff that she contacted the Riverside County Planning Office to see if the addition of a second mobile home would be feasible. After being advised by the Planning Office that a second home would be acceptable, the Hernandezes paid the applicable fees associated with the second mobile home and purchased the home, which is sitting on the back of their property unoccupied.

The Regional Board has previously approved the use of second septic-tank subsurface disposal systems to accommodate second mobile homes on properties too small to comply with the minimum lot size requirements provided that the homeowners agreed to an Agreement of Restriction as part of the Chain of Title, stating that the property may not be sold until the second mobile home has been removed.

#### RECOMMENDATION:

Approve Mr. & Mrs. Hernandez’s request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157 with the following stipulations: 1) Once the mobile home is no longer required for the use of Mr. and Mrs. Hernandezes parents, it shall be removed from their property and 2) the Hernandez’s must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that the property may not be sold until the second mobile home has been removed.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon  
Riverside County Environmental Health – Sam Martinez/Greg Dellenbach  
Riverside County Building and Safety – Tom Ingram  
Riverside County Planning – Mark Balys  
Riverside County Assessors Office